

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE: Linkscorp Tennessee Three LLC )  
 Dist. L01, Block 59, Parcels 00184, 00185, 00188, ) Shelby County  
 00194, 00200 and 00381 )  
 Multiple Subclassifications )  
 Tax Year 2005 )

### INITIAL DECISION AND ORDER

## Statement of the Case

The subject property is presently valued at \$4,576,300 as set forth in exhibit A.

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on June 6, 2006 in Memphis, Tennessee. In attendance at the hearing were registered agent Walter H. Benedict, Jr. for the appellant and Shelby County Property Assessor's representative Larry Bankston, TCA.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of the Stonebridge Golf Club, an 18-hole daily fee golf course located at 3049 Davies Plantation Road South in Lakeland, Tennessee.

The taxpayer contended that subject property should be valued at approximately \$3,000,000. In support of this position, the taxpayer introduced an appraisal report which valued subject real estate at \$3,500,000 and the going concern at \$4,000,000 as of May 13, 2003. In addition, Mr. Benedict asserted that subject property has decreased in value since the appraisal report due to a decline in both income and the number of rounds played. Moreover, Mr. Benedict introduced income approaches which he maintained show a decline in value from \$3,798,477 to \$2,206,944 between January 1, 2003 and January 1, 2005. Finally, the taxpayer entered into evidence various articles discussing the state of the golf industry.

The assessor contended that subject property should remain valued at \$4,576,300. In support of this position, the cost approach was introduced into evidence. Mr. Bankston maintained that the vacant land sales and Marshall Swift Valuation cost estimates summarized in his report support the current appraisal of subject property.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$4,576,300 as contended by the assessor of property.

Since the taxpayer is appealing from the determination of the Shelby County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the appraisal report relied on by the taxpayer cannot receive any weight for at least two reasons. First, the appraisal was made as of May 13, 2003 whereas January 1, 2005 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). Second, and most importantly, the appraisers were not present to testify or undergo cross-examination. Mr. Bankston stated on several occasions that he would have posed various questions to the appraisers had they been present. The administrative judge finds that the State Board of Equalization has repeatedly refused to consider appraisal reports in similar circumstances. See, e.g. *TRW Koyo* (Monroe Co., Tax Years 1992-1994) wherein the Assessment Appeals Commission ruled in pertinent part as follows:

The taxpayer's representative offered into evidence an appraisal of the subject property prepared by Hop Bailey Co. Because the person who prepared the appraisal was not present to testify and be subject to cross-examination, the appraisal was marked as an exhibit for identification purposes only. . . .

\* \* \*

. . . The commission also finds that because the person who prepared the written appraisal was not present to testify and be subject to cross-examination, the written report cannot be considered for evidentiary purposes. . . .

Final Decision and Order at 2.

The administrative judge finds that Mr. Benedict's income approaches have no probative value whatsoever. The administrative judge finds that Mr. Benedict simply capitalized each year's income by the same capitalization rate of 9.36%. The capitalization rate was apparently derived by calculating the rate necessary to arrive at the prior appraised value of \$4,000,000 given the net operating income at that point in time. Respectfully, this methodology does not comport with generally accepted appraisal practices. See generally, *Appraisal Institute, The Appraisal of Real Estate* at 493-95 and 529-47 (12<sup>th</sup> ed. 2001).

Based upon the foregoing, the administrative judge has no choice except to find that the taxpayer introduced insufficient evidence to even establish a prima facie case. Accordingly, the administrative judge finds that the current appraisal of subject property must be affirmed based upon the presumption of correctness attaching to the decision of the Shelby County Board of Equalization.

## ORDER

It is therefore ORDERED that the values and assessments set forth in exhibit A are hereby adopted for tax year 2005:

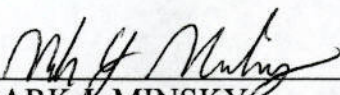
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of June, 2006.

  
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MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Walter H. Benedict, Jr.  
Tameaka Stanton-Riley, Appeals Manager

**EXHIBIT A**

<u>Parcel ID</u>	<u>Land Value (\$)</u>	<u>Improvement Value (\$)</u>	<u>Total Value (\$)</u>	<u>Assessment (\$)</u>
L01-59-00184	269,400	197,900	467,300	116,825
L01-59-00185	93,600	99,000	192,600	48,150
L01-59-00188	312,300	197,900	510,200	127,550
L01-59-00194	68,600	99,000	167,600	41,900
L01-59-00200	303,700	296,900	600,600	150,150
L01-59-00381	<u>1,281,700</u>	<u>1,356,300</u>	<u>2,638,000</u>	<u>734,665</u>
TOTALS	2,329,300	2,247,000	4,576,300	1,219,240